

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be additional reimbursement for date of service 01/08/01?
- b. The request was received on 01/04/02.

II. EXHIBITS

1. Requestor, Exhibit 1:
 - a. TWCC-60a/b and Letter Requesting Dispute Resolution
 - b. UB-92s
 - c. EOBs
 - d. Reimbursement data (EOB reimbursement log)
 - e. Medical Records
 - f. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit 2:
 - a. TWCC-60a/b and Response to a Request for Dispute Resolution dated 03/13/02
 - b. EOBs
 - c. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g)(3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 02/27/02. Per Rule 133.307 (g)(4), the carrier representative signed for the copy on 02/27/02. The response from the insurance carrier was received in the Division on 03/13/02. Based on Rule 133.307 (i), the insurance carrier's response is timely.
4. Notice of Medical Dispute is reflected as Exhibit #3 of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 01/07/02
 - a. “(Requestor) charges the above-referenced services at a fair and reasonable rate. Specifically, these rates are based upon a comparison of charges to other Carriers and the amount of reimbursement received for these same or similar services.”
2. Respondent: Letter dated 03/13/02
 - a. “It is the position of the State Office of Risk Management (SORM), and as evidenced by the TWCC-62 attached, that a fair and reasonable reimbursement was made to the requestor for the services rendered on January 8, 2001.”

IV. FINDINGS

1. Based on Commission Rule 133.307 (d) (1-2), the only date of service eligible for review is 01/08/01.
2. The provider billed a total of \$11,474.05 on date of service 01/08/01.
3. The carrier reimbursed \$6,684.43 (includes supplemental payment of \$54.18), and the EOB has the denial “M – Reduced to Fair & Reasonable.
4. The total amount in dispute, per the TWCC-60, is \$1,636.00. The difference between the billed amount and the reimbursement received is \$4,789.62.

V. RATIONALE

The medical documentation indicates the services were performed at an ambulatory surgery center. Commission Rule 134.401 (a)(4) states ASCs, “shall be reimbursed at a fair and reasonable rate...”

Section 413.011 (d) of the Texas Labor Code states, “Guidelines for medical services must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fees charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual’s behalf. The Commission shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines.”

Commission Rule 133.304 (i)(1-4) places certain requirements on the carrier when reducing the billed amount to fair and reasonable. The carrier has not submitted a methodology that would meet the requirements of the referenced Rule.

The provider has submitted reimbursement data. The provider has submitted five EOBs from other carriers, these indicate that the provider has been reimbursed and has accepted as fair and reasonable from 80% to 100% of the billed amount. These EOBs do have the same ICD-9 code as the date of service in dispute. However, the billed amount ranges from a low of \$1,256.90 to a high of \$10,205.60. This wide range would indicate that not all of these EOBs are for similar treatment. The billed amount of this dispute is \$11,474.05. In addition, the provider has submitted a reimbursement log of other EOBs. This list shows the date of service, the amount billed, amount reimbursed, percentage of the billed amount reimbursed, and the payer of the bill. The list shows a wide range in the amount billed and in the amount of reimbursement received as a percentage. The list contains no references to the treatments/services performed and no ICD-9 codes.

Due to the fact that there is no current fee guideline for ASCs, the Medical Review Division has to determine based on the parties' submission of information, which party has provided the more persuasive evidence. The carrier has not submitted reimbursement data to explain how they arrived at what they consider fair and reasonable reimbursement and that meets the requirements of Rule 133.304. The provider has submitted reimbursement data in an effort to document fair and reasonable reimbursement and meet the criteria identified in Sec. 413.011(d) of the Texas Labor Code. Based on the evidence available for review, the Requestor is entitled to the additional reimbursement requested on the TWCC-60. Therefore, additional reimbursement of \$1,636.00 is recommended.

The above Findings and Decision are hereby issued this 10th day of April, 2002.

Larry Beckham
Medical Dispute Resolution Officer
Medical Review Division

VI. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby Orders the Respondent to remit \$1,636.00 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this Order.

This Order is hereby issued this 10th day of April 2002

Carolyn Ollar, RN, BA
Medical Dispute Resolution Supervisor
Medical Review Division

This document is signed under the authority delegated to me by Richard Reynolds, Executive Director, pursuant to the Texas Workers' Compensation Act, Texas Labor Code Sections 402.041 - 402.042 and re-delegated by Virginia May, Deputy Executive Director.